

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Patrick L. Knueven,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-01082
Parcel No. 060/00869-019-002

On March 8, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Patrick Knueven, was self-represented. Assistant County Attorney David Hibbard represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Patrick Knueven, is the owner of property located at 3621 E. 41st Street, Des Moines, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$70,500, representing \$17,500 in land value and \$53,000 in improvement value. Knueven protested the assessment to the Polk County Board of Review on the grounds the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); the property was assessed for more than authorized by law under section 441.37(1)(a)(2); and there was an error in the assessment under section 441.37(1)(a)(4), claiming an “error in [the] county calculations.” Essentially, we find Knueven is reasserting the property is over-assessed. Knueven also asserted that there has been a downward change in the value since the last assessment under sections 441.37(1)(b)

and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim. However, his claim essentially reasserted his belief that the subject property was over-assessed. Knueven believed the correct value was \$66,800. The Board of Review denied the protest.

Knueven then appealed to this Board asserting simply that the “amount is incorrect” and that the correct value is \$60,000. We will consider both his inequity and over assessment claims.

According to the property record card, Knueven’s property is a bi-attached, split-foyer home built in 1981. It has 546 square feet of above-grade living area and a fully finished 468 square-foot basement. It also has a 64 square-foot patio and a 384 square-foot detached garage built in 1990. The subject site is 0.149-acres.

In his Board of Review petition, Knueven listed twenty-three properties, all located on E. 41st Street, for equity comparison. He provided a handwritten page identifying the house number and the total assessed value for 2010 and 2011. He testified that they were all identical bi-attached, split-foyer properties. He asserts that because the average reduction from the 2010 to 2011 assessments for these properties was roughly \$5080, his property should receive the same reduction. He states that his property was reduced only \$800 between the 2010 and 2011 assessment. We note the record indicates the Board of Review reduced the subject’s 2009 assessment by \$5800 (which carried over to 2010); and there was no evidence to indicate Knueven’s comparable properties received similar reductions at that time.

Knueven’s testimony has convinced the Board that these properties are structurally identical. However, he provided no evidence about these properties for this Board to determine if they were indeed sufficiently similar to his in condition, quality of finish, and all amenities. In fact, the record

indicates his property has a detached garage and only one other property (3618 E. 41st Street) he considered had this same feature.

The range of total assessment for the twenty-two properties that do not have a garage was from \$58,300 to \$66,500; compared to his assessment of \$70,500. However, 3618 E 41st Street was assessed at \$71,300. Based upon the minimal evidence provided, it appears the subject property was equitably assessed when compared to other properties with similar amenities.

Ultimately, there has been no analysis of the assessments of these properties or evidence of their market values to conduct a sale-ratio analysis. For these reasons, the evidence is insufficient for an equity claim and we give it no consideration.

Knueven did not provide any evidence of the subject property's fair market value as of January 1, 2011, such as an appraisal of the subject or recent, adjusted sales of comparable properties. Therefore, he has not met his evidentiary burden to succeed on his over assessment claim.

The Board of Review did not submit any evidence.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Knueven submitted twenty-three properties he considered for equity comparison. However, he did not provide evidence of the properties' market values to compare with their assessments for the development of a sale-ratio analysis. Further, the evidence indicates the only other property Knueven offered that also has a garage, 3618 E. 41st Street, is assessed for more than the subject. This suggests Knueven's property is equitably assessed. Knueven did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

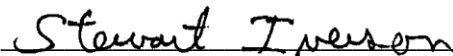
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Knueven did not provide any evidence of the fair market value of the subject property as of January 1, 2011, such as an appraisal or recent sales of comparable properties. Thus, he failed to establish his property is over assessed.

THE APPEAL BOARD ORDERS the assessment of the Patrick Knueven's property located at 3621 E. 41st Street, Des Moines, Iowa, is affirmed with a total value of \$70,500, allocated as \$17,500 in land value and \$53,000 in improvement value as of January 1, 2011.

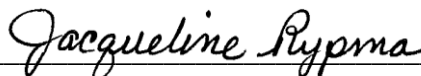
Dated this 9th day of April, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>April 9, 2013</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	
Signature	_____